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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/822,064	03/30/2001	David F. Mears	068448.174	1477

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EXAMINER

IQBAL, KHAWAR

ART UNIT

PAPER NUMBER

2688

DATE MAILED: 11/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/822,064

Applicant(s)

MEARS ET AL.

Examiner

Khawar Iqbal

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 September 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 and 18-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-16 and 18-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

Response to Amendment

1. Regarding claims 1-16, and 18-22, the applicant argues on page 2, lines 7-11 that "Applicant respectfully notes that the present application has a filing date of March 30, 2001. The filing date of Shpancer is April 13, 2002. Thus it would appear that based on dates alone, Shpancer is not an appropriate reference for anticipating claims 1-16, and 18-22. Accordingly, applicant kindly requests that this basis of rejection be removed". Examiner disagrees with this argument. The filing date of Shpancer reference is April 13, 1992, which is earlier than the priority date of the current application. Therefore, the rejection in view of Shpancer will remain.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-16, 18-22 are rejected under 35 U.S.C. 102(b) as being unpatentable by Shpancer et al (5282204).

4. Regarding claim 1 Shpancer et al teaches a communications system for transmitting information signals to a first plurality of receivers upon request, and for

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transmitting parasitic data to a second plurality of receivers, said communications system comprising (fig. 1):

a transmitter for transmitting an information signal to at least one of the first plurality of receivers on an assigned frequency selected from among a plurality of available frequencies, in response to a request to transmit received from a user of said communications system (col. 1, lines 46-58, col. 3, lines 30-55); and

a controller coupled to said transmitter for transmitting parasitic data (overlying data) to at least one of the second plurality of receivers on a heretofore unoccupied frequency selected from among the plurality of available frequencies, and wherein the parasitic data transmission is interrupted if the selected frequency is required for transmitting an information signal to one of the first plurality of receivers (col. 1, lines 46-58, col. 3, lines 30-55, col. 4, lines 18-40).

Regarding claim 5 Shpancer et al teaches a trunked radio repeater system including a trunked radio repeater and a plurality of portable radios for communicating bi-directionally with each other via said trunked radio repeater, wherein the trunked radio repeater system further includes plural working channels, said trunked radio repeater system further including a plurality of parasitic receivers operating on a secondary basis to the plurality of portable radios, said trunked radio repeater system comprising:

a first controller for receiving a request from one of the plurality of portable radios to transmit an information signal to at least one other of the plurality of portable radios,

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and in response thereto for assigning a working channel to carry the information signal (col. 1, lines 46-58, col. 3, lines 30-55, col. 4, lines 18-40); and

a second controller responsive to said first controller for transmitting parasitic data to one or more of the plurality of parasitic receivers on an unoccupied working channel (col. 1, lines 46-58, col. 3, lines 30-55, col. 4, lines 18-40); and

when the first controller assigns a working channel that is in use transmitting parasitic, the first controller terminating the parasitic data transmission and transmitting an information signal on the working channel (col. 1, lines 46-58, col. 3, lines 30-55, col. 4, lines 18-40).

Regarding claim 19 Shpancer teaches a method for operating a trunked radio repeater system having a control channel and plural working channels, wherein the working channels are assigned for use by one or more of a first plurality of radios as specified by a control signal carried on the control channel and assigned for use by a second plurality of radios when not in use by one of the first plurality of radios, said method comprising:

operating one or more of the first plurality of radios on one of the plural working channels in response to an assignment signal carried on the control channel (col. 1, lines 46-58, col. 3, lines 30-55, col. 4, lines 18-40);

determining when a working channel is unoccupied, and permitting operation of one or more of the second plurality of radios on an unoccupied working channel until the working channel is assigned for use by the first plurality of radios (col. 1, lines 46-58, col. 3, lines 30-55, col. 4, lines 18-40).

Regarding claims 2,6 and 14 Shpancer et al teaches wherein the parasitic data is transmitted in the form of digital data packets (col. 1, lines 46-58, col. 3, lines 30-55, col. 4, lines 18-40).

Regarding claims 3,7 and 21 Shpancer et al teaches wherein each of the first plurality of receivers includes a transmitting apparatus, and wherein a user of one of the first plurality of receivers requests a frequency assignment over which the information signal is transmitted from the requesting user to at least one other of the first plurality of receivers (col. 1, lines 46-58, col. 3, lines 30-55, col. 4, lines 18-40).

Regarding claims 4,8 Shpancer et al teaches wherein the users of the first plurality of receivers provide public services (col. 1, lines 46-58, col. 3, lines 30-55, col. 4, lines 18-40).

Regarding claim 9 Shpancer et al teaches wherein a signal is transmitted from the trunked radio repeater to at least one of the plurality of parasitic receivers, wherein said signal assigns a working channel on which the parasitic receiver can transmit to the trunked radio repeater (col. 1, lines 46-58, col. 3, lines 30-55, col. 4, lines 18-40).

Regarding claim 10 Shpancer et al teaches including an outbound control channel for carrying the signal assigning the working channel assignment (col. 1, lines 46-58, col. 3, lines 30-55, col. 4, lines 18-40).

Regarding claim 11 Shpancer et al teaches wherein each working channel includes an inbound frequency and an outbound frequency, and wherein the inbound frequency to be used for transmitting to the trunked radio repeater from one of the plurality of parasitic receivers is the inbound frequency of the working channel on which

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the parasitic receiver last received parasitic data (col. 1, lines 46-58, col. 3, lines 30-55, col. 4, lines 18-40).

Regarding claim 12 Shpancer et al teaches wherein the second controller transmits an outbound frequency assignment signal to at least one of the plurality of parasitic receivers, in response to which the at least one parasitic receiver tunes to the assigned outbound frequency and thereafter receives the parasitic data on the assigned outbound frequency (col. 1, lines 46-58, col. 3, lines 30-55, col. 4, lines 18-40).

Regarding claims 13,15 Shpancer et al teaches wherein the parasitic data includes address information, wherein each one of the plurality of parasitic receivers has an address, wherein the parasitic data is transmitted to all of the plurality of parasitic receivers, but only the parasitic receiver having an address matching the address information in the parasitic data responds to the parasitic data (col. 1, lines 46-58, col. 3, lines 30-55, col. 4, lines 18-40).

Regarding claims 16,20 Shpancer et al teaches wherein when the first controller assigns a working channel that is in use transmitting parasitic data, the parasitic data transmission is terminated and the working channel is relinquished for transmitting an information signal (col. 1, lines 46-58, col. 3, lines 30-55, col. 4, lines 18-40).

Regarding claims 18,22 Shpancer et al teaches wherein the termination of the parasitic data transmission before completion thereof causes the parasitic data to be stored and transmitted at a later time (col. 1, lines 46-58, col. 3, lines 30-55, col. 4, lines 18-40).

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5. Claims 1-16,18-22 are rejected under 35 U.S.C. 102(b) as being unpatentable by Barnes et al (5815799).

6. Regarding claim 1 Barnes et al teaches a communications system for transmitting information signals to a first plurality of receivers upon request, and for transmitting parasitic data to a second plurality of receivers, said communications system comprising (fig. 1):

a transmitter for transmitting an information signal to at least one of the first plurality of receivers on an assigned frequency selected from among a plurality of available frequencies, in response to a request to transmit received from a user of said communications system (col. 11, lines 25-65, col. 14, lines 5-30, col. 23, lines 35-43); and

a controller coupled to said transmitter for transmitting parasitic data (overlying data) to at least one of the second plurality of receivers on a heretofore unoccupied frequency selected from among the plurality of available frequencies, and wherein the parasitic data transmission is interrupted if the selected frequency is required for transmitting an information signal to one of the first plurality of receivers (col. 8, lines 29-55, col. 11, lines 25-65, col. 14, lines 5-30, col. 23, lines 35-43).

Regarding claim 5 Barnes et al teaches a trunked radio repeater system including a trunked radio repeater and a plurality of portable radios for communicating bi-directionally with each other via said trunked radio repeater, wherein the trunked radio repeater system further includes plural working channels, said trunked radio repeater system further including a plurality of parasitic receivers operating on a

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secondary basis to the plurality of portable radios, said trunked radio repeater system comprising (fig. 1):

a first controller for receiving a request from one of the plurality of portable radios to transmit an information signal to at least one other of the plurality of portable radios, and in response thereto for assigning a working channel to carry the information signal (col. 11, lines 25-65, col. 14, lines 5-30, col. 23, lines 35-43); and

a second controller responsive to said first controller for transmitting parasitic data to one or more of the plurality of parasitic receivers on an unoccupied working channel (col. 8, lines 29-55, col. 11, lines 25-65, col. 14, lines 5-30, col. 23, lines 35-43); and

when the first controller assigns a working channel that is in use transmitting parasitic, the first controller terminating the parasitic data transmission and transmitting an information signal on the working channel (col. 8, lines 29-55, col. 11, lines 25-65, col. 14, lines 5-30, col. 23, lines 35-43).

Regarding claim 19 Barnes et al teaches a method for operating a trunked radio repeater system having a control channel and plural working channels, wherein the working channels are assigned for use by one or more of a first plurality of radios as specified by a control signal carried on the control channel and assigned for use by a second plurality of radios when not in use by one of the first plurality of radios, said method comprising (fig. 1):

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operating one or more of the first plurality of radios on one of the plural working channels in response to an assignment signal carried on the control channel (col. 8, lines 29-55, col. 11, lines 25-65, col. 14, lines 5-30, col. 23, lines 35-43); determining when a working channel is unoccupied, and permitting operation of one or more of the second plurality of radios on an unoccupied working channel until the working channel is assigned for use by the first plurality of radios (col. 8, lines 29-55, col. 11, lines 25-65, col. 14, lines 5-30, col. 23, lines 35-43).

Regarding claims 2,6 and 14 Barnes et al teaches wherein the parasitic data is transmitted in the form of digital data packets (col. 8, lines 29-55, col. 11, lines 25-65, col. 14, lines 5-30, col. 23, lines 35-43).

Regarding claims 3,7 and 21 Barnes et al teaches wherein each of the first plurality of receivers includes a transmitting apparatus, and wherein a user of one of the first plurality of receivers requests a frequency assignment over which the information signal is transmitted from the requesting user to at least one other of the first plurality of receivers (col. 8, lines 29-55, col. 11, lines 25-65, col. 14, lines 5-30, col. 23, lines 35-43).

Regarding claims 4,8 Barnes et al teaches wherein the users of the first plurality of receivers provide public services (col. 8, lines 29-55, col. 11, lines 25-65, col. 14, lines 5-30, col. 23, lines 35-43).

Regarding claim 9 Barnes et al teaches wherein a signal is transmitted from the trunked radio repeater to at least one of the plurality of parasitic receivers, wherein said signal assigns a working channel on which the parasitic receiver can transmit to the

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trunked radio repeater (col. 8, lines 29-55, col. 11, lines 25-65, col. 14, lines 5-30, col. 23, lines 35-43).

Regarding claim 10 Barnes et al teaches including an outbound control channel for carrying the signal assigning the working channel assignment (col. 8, lines 29-55, col. 11, lines 25-65, col. 14, lines 5-30, col. 23, lines 35-43).

Regarding claim 11 Barnes et al teaches wherein each working channel includes an inbound frequency and an outbound frequency, and wherein the inbound frequency to be used for transmitting to the trunked radio repeater from one of the plurality of parasitic receivers is the inbound frequency of the working channel on which the parasitic receiver last received parasitic data (col. 8, lines 29-55, col. 11, lines 25-65, col. 14, lines 5-30, col. 23, lines 35-43).

Regarding claim 12 Barnes et al teaches wherein the second controller transmits an outbound frequency assignment signal to at least one of the plurality of parasitic receivers, in response to which the at least one parasitic receiver tunes to the assigned outbound frequency and thereafter receives the parasitic data on the assigned outbound frequency (col. 8, lines 29-55, col. 11, lines 25-65, col. 14, lines 5-30, col. 23, lines 35-43).

Regarding claims 13,15 Barnes et al teaches wherein the parasitic data includes address information, wherein each one of the plurality of parasitic receivers has an address, wherein the parasitic data is transmitted to all of the plurality of parasitic receivers, but only the parasitic receiver having an address matching the address

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information in the parasitic data responds to the parasitic data (col. 8, lines 29-55, col. 11, lines 25-65, col. 14, lines 5-30, col. 23, lines 35-43).

Regarding claims 16,20 Barnes et al teaches wherein when the first controller assigns a working channel that is in use transmitting parasitic data, the parasitic data transmission is terminated and the working channel is relinquished for transmitting an information signal (col. 8, lines 29-55, col. 11, lines 25-65, col. 14, lines 5-30, col. 23, lines 35-43).

Regarding claims 18,22 Barnes et al teaches wherein the termination of the parasitic data transmission before completion thereof causes the parasitic data to be stored and transmitted at a later time (col. 8, lines 29-55, col. 11, lines 25-65, col. 14, lines 5-30, col. 23, lines 35-43).

7. Claims 1,5,19 are rejected under 35 U.S.C. 102(e) as being unpatentable by Zellner et al (6069882).

8. Regarding claims 1,5,19 Zellner et al teaches a communications system for transmitting information signals to a first plurality of receivers upon request, and for transmitting parasitic data to a second plurality of receivers, said communications system comprising (figs. 1-3):

a transmitter for transmitting an information signal to at least one of the first plurality of receivers on an assigned frequency selected from among a plurality of available frequencies, in response to a request to transmit received from a user of said communications system (col. 7, lines 50-65, col. 8, lines 10-35); and

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a controller coupled to said transmitter for transmitting parasitic data (overlying data) to at least one of the second plurality of receivers on a heretofore unoccupied frequency selected from among the plurality of available frequencies, and wherein the parasitic data transmission is interrupted if the selected frequency is required for transmitting an information signal to one of the first plurality of receivers (col. 7, lines 50-65, col. 8, lines 10-35).

Conclusion

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Khawar Iqbal whose telephone number is (571) 272-7909.


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If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, George Eng can be reached on (571) 272-7495. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free) or 703-305-3028.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist/customer service whose telephone number is (571) 272-2600.

Khawar Iqbal


GEORGE ENG
PRIMARY EXAMINER